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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,265	02/25/2002	Kohei Nishiyama	TOYAM86.001APC	4565
20995 7590 01/14/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER ERB, NATHAN	
			ART UNIT 3628	PAPER NUMBER
			NOTIFICATION DATE 01/14/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/070,265

Applicant(s)

NISHIYAMA, KOHEI

Examiner

Nathan Erb

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-31 is/are rejected.
- 7) ☒ Claim(s) 17,18,20,21,23,24,27,28 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Applicants' response to Office action was received on December 13, 2007.
3. In response to applicants' cancellation of claims 1-16, all of the prior art rejections from the previous Office action are hereby withdrawn. However, note the new claim objections and claim rejections below in this Office action.
4. In light of the withdrawal of the prior art rejections, applicants' arguments are believed to be no longer applicable.

Claim Objections

5. Claims 17-18, 20-21, 23-24, 27-28, and 31 are objected to because of the following informalities:
 - a. In the fifteenth line of claim 17, please replace the phrase "purchase willing" with --purchase-willing--.
 - b. In the eighteenth line of claim 17, please replace the phrase "purchase willing" with --purchase-willing--.
 - c. In the fourth line of claim 18, please replace the word "price" with --prices--.
 - d. In the fifteenth line of claim 20, please replace the phrase "purchase willing" with --purchase-willing--.
 - e. In the eighteenth line of claim 20, please replace the phrase "purchase willing" with --purchase-willing--.

- f. In the fourth line of claim 21, please replace the word “price” with --prices--.
- g. In the first line of claim 23, please replace the word “collects” with --collect--.
- h. In the fifteenth line of claim 23, please replace the word “purchase willing” with --purchase-willing--.
- i. In the eighteenth line of claim 23, please replace the word “purchase willing” with --purchase-willing--.
- j. In the fourth line of claim 24, please replace the first occurrence of the word “price” with --prices--.
- k. In the third line of claim 27, please remove the word “price.”
- l. In the second line of claim 28, please replace the second occurrence of the word “of” with --from--.
- m. In the second-from-last line of claim 31, please replace the second occurrence of the word “answer” with --answerer--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

- 6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 7. Claims 17-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per **Claim 17**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when the comparison indicates that an appropriate profit will not be generated...”

As per **Claim 17**, p. 2, third-from-last line on the page, it is unclear what is being referred to by the word “it.” This renders the claim to be indefinite.

As per **Claim 17**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when the comparison indicates that the appropriate profit will be generated as a result of the modified desired purchasing prices.”

As per **Claim 18**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when the comparison indicates that the appropriate profit will be generated as a result of the modified desired purchasing prices.”

As per **Claim 19**, claim 19 is dependent on indefinite claims and does not cure the indefiniteness of those claims. Therefore, claim 19 is also indefinite.

As per **Claim 20**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when the comparison indicates that an appropriate profit will not be generated...”

As per **Claim 20**, p. 4, sixth line on the page, it is unclear what is being referred to by the word “it.” This renders the claim to be indefinite.

As per **Claim 20**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when the comparison indicates that the appropriate profit will be generated as a result of the modified desired purchasing prices.”

As per **Claim 21**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being

referred to here is: “when the comparison indicates that the appropriate profit will be generated as a result of the modified desired purchasing prices.”

As per **Claim 22**, claim 22 is dependent on indefinite claims and does not cure the indefiniteness of those claims. Therefore, claim 22 is also indefinite.

As per **Claim 23**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when the comparison indicates that an appropriate profit will not be generated...”

As per **Claim 23**, p. 5, fifteenth line on the page, it is unclear what is being referred to by the word “it.” This renders the claim to be indefinite.

As per **Claim 23**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when the comparison indicates that the appropriate profit will be generated as a result of the modified desired purchasing prices.”

As per **Claim 24**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when the comparison indicates that the appropriate profit will be generated as a result of the modified desired purchasing prices.”

As per **Claim 25**, claim 25 is dependent on an indefinite claim and does not cure the indefiniteness of that claim. Therefore, claim 25 is also indefinite.

As per **Claim 26**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when said sales value is less than said threshold.”

As per **Claims 27-28**, these claims are dependent on an indefinite claim and do not cure the indefiniteness of that claim. Therefore, these claims are also indefinite.

As per **Claim 29**, the claim contains an action that is to be performed if a particular condition is present. However, the claim does not also state what action occurs if that particular condition is not present. This renders the claim to be indefinite. The conditional statement being referred to here is: “when said modified sales value is equal to or greater than said threshold.”

As per **Claims 30-31**, these claims are dependent on indefinite claims and do not cure the indefiniteness of those claims. Therefore, these claims are also indefinite.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 23-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is directed to a computer program, without the computer-readable medium needed to realize the computer program's functionality. Therefore, the claim is directed to nonstatutory functional descriptive material. See MPEP 2106.01(I).

In order to overcome this rejection and clarify the subject matter of the claims, Examiner suggests the following changes:

a. Insert the word --computer-readable-- immediately before the word "recording" in the first line of claim 23.

b. A computer program is a sequential listing of instructions that correspond to actions, not structures. Therefore, Examiner recommends that claim 23 be phrased in terms of a computer program which performs a series of steps, as opposed to a computer program which controls a server having the following various parts.

c. In the first line of claim 24, please replace the word "recorded" with --computer-readable recording--.

d. In the first and second lines of claim 25, please replace the phrase "The system for collecting commodity specifications and related customer information" with --The computer-readable recording medium recorded with a program--.

Conclusion

10. **Examiner's Note:** Examiner has cited particular portions of the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Erb whose telephone number is (571) 272-7606. The examiner can normally be reached on Mondays through Fridays, 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

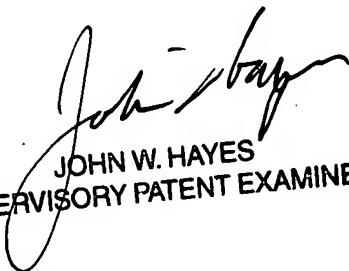
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Nathan Erb
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Art Unit 3628

nhe


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER